

# FERPA

## Rights & Responsibilities In Higher Education

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1. FERPA – the federal **Family Educational Rights and Privacy Act**
  - Established 1974, amended numerous times
  - Spending statute – applies to institutions receiving government funds
  - Administered by the US Department of Education
2. FERPA rights and responsibilities
  - Between the institution and the student
  - All other entities are a third party
3. Institutional requirement – Annual Disclosure
  - Notice of rights under FERPA and how students exercise those rights
  - Definitions: directory information, education official, legitimate educational interest
  - Other disclosures
4. FERPA makes certain guarantees to parents and eligible students

### FERPA Rights

- Inspect and review education records
- Seek to amend education records
- To have some control over the disclosure of information from education records
- To file a complaint against an institution for an alleged violation of these rights

5. **Eligible student** is an individual
  - who has reached the age of 18, *OR*
  - who attends a postsecondary institution

6. **Education records** are records that
  - contain information directly related to a student or to an individual's attendance as a student *AND*
  - are maintained by the educational institution or agency or by a party acting for the educational institution or agency
  
7. **Exceptions to education records**
  - Sole possession
  - Law enforcement
  - Employment
  - Medical
  - Alumni
  - Peer-graded papers
  
8. **Education officials** are
  - individuals employed by the institution in an administrative, supervisory, academic, research, or other administrative position
  - individuals who serve on an institution's governing body
  - individuals, organizations, and other entities employed by or under contract to the institution who receive, maintain, and utilize education records to perform a specific task
  - students serving on an official committee or assisting another school official in the performance of that official's tasks
  
9. Access by education officials to the information in education records is limited by legitimate educational interest. Institutions must define legitimate educational interest.

Education officials have a **legitimate educational interest** when, in the exercise or completion of their administrative, supervisory, academic, research, or other administrative responsibilities on behalf of the institution, incur the need to know specific information from education records.

10. **Inspect and review**
  - Respond to requests within 45 days or per State requirements
  - Photocopies not required
  - Cannot destroy records that have been requested
  
11. **Letters of recommendation** are education records. Students have access to these records except when
  - Student has waived right of access in writing
  - The waiver of right was not a condition for obtaining the letter
  - The waiver is maintained with the letter of recommendation
  
12. **Seek to Amend Records**
  - Inaccurate, misleading, or otherwise an invasion of privacy

- Grades are not included
- Institution must have procedures for challenging the content of education records

13. FERPA guarantee: when a student disagrees with resolution of a challenge

- Student may document objection in a written statement
- Statement must be retained and released with record of objection

14. Control over disclosure of information

- Under FERPA, institution never required to disclose information
- Define directory information
- Prior written consent required for disclosure of non-directory information
- Student may request that institution withhold disclosures of information
- Use reasonable methods to identify parties for disclosures
- Further disclosure of information not permitted

15. Directory information – permitted, but not required

**Directory information** is information that is not generally considered harmful or an invasion of privacy if released. Directory information

*may include*

*may NOT include*

Name	Degrees and awards received	Social Security Number
Address	Photographs	Student ID Number
Telephone number	Most recent previous school attended	Race
E-mail address	Participation in officially recognized activities and sports	Ethnicity
Student user ID	Height and weight of athletes	Nationality
Date and place of birth		Gender
Dates of attendance		
Enrollment status		
Major field of study		

16. Restrictions of information

- Restrict all (FERPA) or some (directory) information
- Specific information – depends upon capability of institution to restrict
- Directory restrictions do not apply to classroom activities or ID badges

17. **Prior written consent** required for each disclosure to third parties

- Specify what records are to be disclosed
- State the purpose for the disclosure
- Identify to whom the disclosure is to be made
- May cover a specific period of time or until revoked
- Date and signature of the student

18. Exceptions to the requirement for prior written consent

- To other school officials
- To schools where the student seeks or intends to enroll or becomes enrolled
- In connection with financial aid
- To accreditation agencies and state auditors
- To the parents of dependent students
- Under certain conditions, to parents when a student has violated an institutional policy/rule governing possession/use of alcohol or other controlled substance
- Disclosures of information about registered sex offenders
- Compliance with judicial orders, subpoenæ, and *ex parte* orders
- Disclosures to appropriate parties, including parents, upon determination of an **articulable and significant threat** to the health and safety of a student or others

19. Family Policy Compliance Office (FPCO)

- Interpretation of FERPA
- Adjudication of FERPA
- Enforcement of FERPA

**Family Policy Compliance Office**

[www.ed.gov/fpc](http://www.ed.gov/fpc)

(800) USA-LEARN or (800) 872-5327

Higher Ed Officials only: [ferpa@ed.gov](mailto:ferpa@ed.gov)

**Privacy Technical Assistance Center**

[www.ed.gov/ptac](http://www.ed.gov/ptac)

Toll Free: (855) 249-3072

[PrivacyTA@ed.gov](mailto:PrivacyTA@ed.gov)

20. Complaints and investigations

- Complaints, withdrawn complaints, no complaint
- Annual Notifications, policies, procedures, training materials, other
- Department may issue findings and may take enforcement action

**Resource**

Ramirez, Clifford A., *FERPA Clear and Simple*. San Francisco: Jossey-Bass, 2009.

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